

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 6643 of 1995

to

FIRST APPEAL No 6661 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BABABHAI AMBARAM PATEL

Versus

DISTRICT COLLECTOR

Appearance:

MR BS PATEL for Appellants

MR CC BHALJA for Respondent

CORAM : MR JUSTICE S.K. KESHOTE

Date of decision: 22/09/98

ORAL JUDGMENT

1. As these first appeals arise from one and the same land acquisition notification under section 4 of the Land Acquisition Act, 1894 and from the common judgment

and award of the 2nd Joint District Judge, Mahesana at Mahesana in Land Acquisition Reference Nos.10 to 17 of 1986 and 19 to 29 of 1986 decided on 11-1-1993 the same are being taken up for hearing together and are being disposed of by this common order.

2. The lands of claimants-appellants were situated on the outskirts of the Town of Visnagar Taluka, District Mahesana. These lands were acquired by the State Government for construction of Gandhinagar - Ambaji Road. Notification under section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act, 1894') was published on 16-3-1978 and notification under section 6 of the Act, 1894 was published on 24-1-1980. The Land Acquisition Officer passed the award in these matters on 4-1-1982 under which he awarded compensation to the claimants-appellants at the rate of Rs.200/- to Rs.400/per Are. The claimants-appellants were not satisfied with this award of the Land Acquisition Officer and on their request, the matters were referred to the Civil Court. Under the impugned award, the Civil Court has held that Rs.8/- per sq. mt. is just, adequate and reasonable amount of compensation to be awarded to the claimants-appellants. Hence, these appeals before this court.

Heard the learned counsel for the parties.

3. The claimants-appellants in the Reference Court have strongly placed reliance on documents Ex.100, the sale deed dated 14-12-1978 of the lands of near vicinity. Under that sale deed the lands have been sold at the rate of Rs.11-80 per sq. mt.. The Reference Court has held that the said sale instance can be taken for fixing the compensation for lands but the rate at which that lands were sold cannot be given to the claimants-appellants as compensation. One of the consideration which prevailed with the Reference Court not to give that sale price to the claimants-appellants on the ground that the lands which were subject matter of sale deed Ex.100 were non-agricultural lands.

4. Learned counsel for the appellants contended that these lands which were subject matter of sale deed Ex.100 were not the non-agricultural lands and that position has not been controverted by the learned counsel for the respondents. I find from the judgment of the Reference Court that this fact heavily prevailed with it not to grant the claimants-appellants, the compensation for acquisition of lands at the rate at which the sale of lands Ex.100 has been made.

5. In view of this admitted factual position, these appeals succeeds. The award of Reference Court challenged in the appeals is set aside and the matters are sent back to the Reference Court to decide the same afresh keeping in view the fact that the lands which were subject matter of sale deed Ex.100 were not non-agricultural lands. As these matters pertain to the amount of compensation to be given to the claimants-appellants, it is expected of the Reference Court to decide the same expeditiously say within six months from the date of receipt of certified copy of this order. No order as to costs.

zgs/-